

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ERIC ELTON,

Plaintiff,

VS.

NASH, *et al.*,

Defendants.

Case No.: 2:12-cv-2108-GMN-NJK


ORDER

Pending before the Court is the Motion for Default Judgment (ECF No. 6) filed by Plaintiff Eric Elton (“Plaintiff”). Rule 55 of the Federal Rules of Civil Procedure provides that when a defendant fails to plead or otherwise defend against a civil action brought against that party, the clerk of court must enter the party’s default. Fed. R. Civ. P. 55(a). After the clerk enters the defendant’s default, the plaintiff can then apply to the court for a default judgment. Fed. R. Civ. P. 55(b).

In this case, the Court cannot enter a default judgment against the defendants, as Plaintiff requests, because the Court lacks jurisdiction over these defendants. Specifically, “[a] federal court does not have jurisdiction over a defendant unless the defendant has been served properly under Fed. R. Civ. P. 4.” *Direct Mail Specialists, Inc. v. Eclat Computerized Techs., Inc.*, 840 F.2d 685, 688 (9th Cir. 1988) (citing *Jackson v. Hayakawa*, 682 F.2d 1344, 1347 (9th Cir. 1982)). Because Plaintiff’s Application for Leave to Proceed in forma pauperis is still under the Court’s consideration, Plaintiff’s Complaint has not yet been served on the Defendants in this case. Therefore, the Court lacks jurisdiction over the Defendants at this time. Accordingly, the Court DENIES Plaintiff’s Motion for Default Judgment (ECF No. 6) because such a motion is premature.

1 **IT IS HEREBY ORDERED** that the Motion for Default Judgment (ECF No. 6) filed
2 by Plaintiff Eric Elton is **DENIED**.

3 **DATED** this 2nd day of May, 2013.

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6 Gloria M. Navarro
7 United States District Judge
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